

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION**

**ORSINO IACOVONE,**

**Plaintiff,**

**v.**

**REGINALD A. WILKINSON, *et al.*,**

**Defendants.**

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**Case No. 2:03-CV-652**

**JUDGE GEORGE C. SMITH**

**Magistrate Judge Norah McCann King**

**OPINION AND ORDER**

This matter is before the Court on *Plaintiff's Objection to the Report and Recommendation Regarding Defendants' Motion for Summary Judgment* ("Plaintiff's Objection"). Doc. No. 90. In the *Report and Recommendation* issued on February 8, 2007, Magistrate Judge King recommended that *Defendants' Motion for Summary Judgment*, Doc. No. 69, be granted. Pursuant to 28 U.S.C. § 636(b)(1), this Court has conducted a *de novo* review of the *Report and Recommendation* and concludes that *Plaintiff's Objection* is without merit.

Plaintiff argues that a videotape on which defendants rely in their motion for summary judgment and to which the Magistrate Judge referred in her *Report and Recommendation* was not the same tape that was produced to him during discovery. Plaintiff "objects to the *Report and Recommendation*" because his counsel "had not seen the tape" and had not been "allowed access to it." This statement, however, is at least partially incorrect. Defendants manually filed the videotape with this Court on April 20, 2006, in support of their motion for summary judgment. *See also Defendants' Motion for Summary Judgment* at 22, 28, 30. Plaintiff received

notice of the manual filing of the videotape and knew that defendants relied on the videotape in their motion for summary judgment. The videotape, being public record, was certainly available to his counsel. Consequently, plaintiff's complaint is no basis for objection to the *Report and Recommendation*.

Accordingly, *Plaintiff's Objection*, Doc. No. 90, is **OVERRULED**. The *Report and Recommendation*, Doc. No. 89, is hereby **ADOPTED** and **AFFIRMED**. *Defendants' Motion for Summary Judgment*, Doc. No. 69, is **GRANTED**.

The Clerk shall enter **FINAL JUDGMENT** in this action.

*s/George C. Smith*  
**GEORGE C. SMITH**  
**UNITED STATES DISTRICT JUDGE**